

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0329P

Use Tax

Calendar Years 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is diversified in gift sales and a publisher. At audit, it was determined that the taxpayer failed to pay tax on capital acquisitions, fixtures, computers, office supplies, subscriptions, and other clearly taxable items. Taxpayer was previously audited in 1993 with the same or similar issues.

Taxpayer failed to remit use tax on clearly taxable purchases although it had a use tax accrual system in place.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that it failed to remit use tax on clearly taxable items that were issues in a prior audit. The current audit revealed that taxpayer failed to remit use tax on forty-nine percent (49%), sixty-four percent (64%), and sixty-eight percent (68%) of its use tax for 1996, 1997, and 1998 respectively.

Taxpayer states it was substantially in compliance for the audit period and cooperated with the auditor.

Further, it has made the necessary changes to avoid future underpayment of taxes in the areas indicated in the audit. Taxpayer requests a waiver of penalties based upon the foregoing facts.

Taxpayer made little attempt to self assess use tax on taxable purchases that were issues in a prior audit. The purchases for which no use tax was accrued or paid amounted to fifty percent or more in the audit period. Taxpayer did not provide reasonable cause to allow a waiver of the penalty.

FINDING

Taxpayer's protest is denied.